

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

**EVIDENTIARY SUBMISSION IN SUPPORT OF
PLAINTIFF'S MOTION TO REMAND**

COMES NOW the Plaintiff, Sonia R. Hammock, and offers the following evidentiary submission in support of her motion to remand:

/s/ Tedford Taylor
TEDFORD TAYLOR

Attorney for Plaintiff

OF COUNSEL:

TAYLOR & TAYLOR
2130 Highland Avenue
Birmingham, Alabama 35205
(205) 558-2800 (phone)
tedford@taylorlawyers.com (e-mail)

CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed this Notice of Appearance so that service will be sent by the ECMF System via electronic mail to counsel of record on this the 25th day of October, 2007:

Larry R. Bradford, Esq.
lbbradford@bradfordsears.com

/s/ Tedford Taylor
TEDFORD TAYLOR

IN THE CIRCUIT COURT OF LOWNDES COUNTY, ALABAMA

SONIA R. HAMMOCK,)
Plaintiff,)
vs.) CIVIL ACTION NO: _____
NELL E. LAMB, an individual;)
TODD SWING, an individual;)
DEFENDANTS A, B and C,)
whether singular or plural,)
that person, firm or)
corporation owning the vehicle)
being driven by NELL E. LAMB,)
on the occasion made the basis)
of this suit; FICTITIOUS)
DEFENDANTS D, E and F, whether)
singular or plural, that)
person, firm or corporation)
on whose behalf the vehicle)
was being driven by NELL E.)
LAMB on the occasion made)
the basis of this lawsuit;)
FICTITIOUS DEFENDANTS G, H)
and I, whether singular or)
plural, that person, firm)
or corporation who or which)
insured the Plaintiff under)
a policy of uninsured and/or)
underinsured motorist coverage)
on the occasions made the)
basis of this lawsuit;)
FICTITIOUS DEFENDANTS J, K)
and L, whether singular or)
plural, that person, firm or)
corporation who or which)
negligently entrusted the)
vehicle to NELL E. LAMB on)
the occasion made the basis)
of this lawsuit; FICTITIOUS)
DEFENDANTS M, N and O,)
whether singular or plural,)
that person who is the)
true and correct name of the)
Defendants known as NELL E.)
LAMB, TODD SWING and/or)

FICTITIOUS DEFENDANTS P, Q)
and R, whether singular or)
plural, that person, firm or)
corporation who or which sold,)
provided, served or otherwise)
dispensed alcoholic beverages)
to Defendant NELL E. LAMB)
prior to the collision made)
the basis of this lawsuit;)
FICTITIOUS DEFENDANTS S, T)
and U, whether singular or)
plural, that person, firm or)
corporation whose negligence,)
wantonness, willfulness and/or)
otherwise wrongful conduct)
caused the collision made the)
basis of this lawsuit,)
Defendants.)

COMPLAINT

1. Plaintiff, SONIA R. HAMMOCK (hereinafter "Plaintiff" or "HAMMOCK"), is an adult resident citizen of Elmore County, Alabama.
2. Defendant NELL E. LAMB (hereinafter "LAMB") is an adult and at all times relevant to the Complaint was a resident of Lowndes County, Alabama.
3. Defendant TODD SWING (hereinafter "SWING") is an adult and at all times relevant to the Complaint was a resident of Lowndes County, Alabama.
4. FICTITIOUS DEFENDANTS A, B, and C, whether singular or plural, is that person, firm or corporation owning the vehicle being driven by NELL E. LAMB on the occasion made the basis of this suit; FICTITIOUS DEFENDANTS D, E and , whether singular or plural, is that person, firm or corporation in whose behalf the vehicle was

being driven by NELL E. LAMB on the occasion made the basis of this lawsuit; FICTITIOUS DEFENDANTS G, H and I, whether singular or plural, is that person, firm or corporation who or which insured the Plaintiff under a policy of uninsured and/or undersinsured motorist coverage on the occasion made the basis of this lawsuit; FICTITIOUS DEFENDANTS J, K and L, whether singular or plural, is that person, firm or corporation who or which negligently entrusted the vehicle to NELL E. LAMB on the occasion made the basis of this lawsuit; FICTITIOUS DEFENDANTS M, N and O, whether singular or plural, is that person, firm or corporation who or which is the true and correct name of the Defendants herein known as NELL E. LAMB, TODD SWING and/or FICTITIOUS DEFENDANTS; FICTITIOUS DEFENDANTS P, Q and R, whether singular or plural, is that person, firm or corporation who or which sold, provided, served or otherwise dispensed alcoholic beverages to Defendant NELL E. LAMB prior to the incident made the basis of this lawsuit; FICTITIOUS DEFENDANTS S, T and U, whether singular or plural, is that person, firm or corporation whose negligence, wantonness, willfulness and/or otherwise wrongful conduct caused the collision made the basis of this lawsuit. The aforesaid wrongful conduct of said FICTITIOUS DEFENDANTS proximately caused damage to Plaintiff as set forth herein. The identities of the FICTITIOUS DEFENDANTS are otherwise unknown to Plaintiff at this time, or if their names are known to Plaintiff at this time, their identities as proper party

Defendants are not known to Plaintiff at this time, but their true names will be substituted by amendment when ascertained.

COUNT ONE

1. On or about November 23, 2005, on U.S. Highway 231, near Tutwiler Prison, on the outskirts of Wetumpka, Elmore County, Alabama, Defendant NELL E. LAMB negligently and/or wantonly caused or allowed the motor vehicle she was operating to collide with the motor vehicle being driven by the Plaintiff.
2. Defendant TODD SWING, and/or FICTITIOUS DEFENDANTS entrusted to Defendant NELL E. LAMB the vehicle being operated by NELL E. LAMB at the time of the collision made the basis of this lawsuit.
3. As a proximate consequence of the negligence and/or wantonness of Defendant(s), Plaintiff was caused to suffer, among other things, the following injuries and damages: she was injured in and about her body, including but not limited to, injury to her shoulder and rotator cuff requiring surgery and painful physical therapy; she incurred medical bills; and, she has suffered physical pain and suffering, mental anguish and emotional distress and other damages, losses and impairments. Some or all of said damages and losses are permanent in nature or are otherwise expected to continue in the future.

WHEREFORE, Plaintiff demands judgment including compensatory and punitive damages against Defendants NELL E. LAMB, TODD SWING

and/or FICTITIOUS DEFENDANTS, in an amount exceeding the jurisdictional minimum of this Court, plus interest and costs.

COUNT TWO

1. Plaintiff realleges the allegations contained in each and every Count of this Complaint.
2. Plaintiff claims damages against Defendant SWING and/or FICTITIOUS DEFENDANTS for negligently entrusting the motor vehicle to Defendant NELL E. LAMB, on November 23, 2005, the date of the collision made the basis of this lawsuit.
3. Plaintiff avers that on November 23, 2005, on U.S. Highway 231, near Tutwiler Prison, on the outskirts of Wetumpka, Elmore County, Alabama, as proximate result of the aforementioned negligent entrustment, Defendant LAMB was in possession and control of Defendant SWING'S and/or FICTITIOUS DEFENDANTS' motor vehicle when she pulled out in front of Plaintiff.
4. Plaintiff avers that Defendant LAMB was incompetent and/or reckless in the operation of the motor vehicle; and Defendant LAMB so negligently and/or wantonly operated the negligently entrusted motor vehicle that she caused said vehicle to collide with the motor vehicle being operated by Plaintiff.
5. Defendant SWING knew, or should have known, of Defendant LAMB'S incompetency, inexperience, and/or recklessness, at all times relevant to the underlying circumstances of this lawsuit, which created an appreciable risk of harm.

6. As a proximate cause of the negligence and/or wantonness of Defendant LAMB, combined with the negligent entrustment of the vehicle, Plaintiff was caused to suffer injuries and damages as previously set forth herein.

WHEREFORE, Plaintiff demands judgment against Defendants, including FICTITIOUS DEFENDANTS, in an amount exceeding the jurisdictional minimum of this Court, plus interest and costs.



TEDFORD TAYLOR (TAY001)

Attorney for Plaintiff

OF COUNSEL

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Birmingham, AL 35205
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(205) 558-2860 - facsimile

Plaintiff demands a trial by struck jury.



TEDFORD TAYLOR

DEFENDANTS' ADDRESSES

NELL E. LAMB
Post Office Box 61
Lowndesboro, Alabama 36752-0061

TODD SWING
Post Office Box 61
Lowndesboro, Alabama 36752-0061

AST-27
REV. 1/81

JAN 19 2005

"MAR 16 2006
ALABAMA UNIFORM TRAFFIC ACCIDENT REPORTEE41400
DPS
Accident No.

Shaded Areas To Be Used By Data Processing Only

Sheet 1 of 2

Microfilm No.

Local Case No. 051101181

LOCATION AND TIME	Date	Time	Day of Week	County	City	Rural	Highway Classification	M-Municipal	Local Zone
	11/23/2005	7:25 PM	M T W TH F S S	29	Wetumpka		— Interstate	S-State	0-Parks/Cargo/Fall From Moving Vehicle
	Month Day Year	MTWTHFS					S-Federal	C-County	02 - Spill
	On Street, Road or Highway			Anterior/Posterior of Cr Between (Node 1) And (Node 2)			03 - Immersion		
	U.S. 231			AL 9			04 - Gas Inhalation		
	5021			5 1 Node 2			05 - Pedestrian		
	Intersection Related			Mile Post			06 - Vehicle		
	1 - Node 1 2 - Node 2			Control Access Hwy Ltr.			07 - Spill		
	0 - Not Int. Related			1 - Main Rd 3 - Interchange			08 - Road/Bridge Collapsed		
	First Harmful Event			5 - Exit Ramp			09 - Jackknifed		
Event Location			Prime Contr Circuits			10 - Other			
20			21			11 - Occupied			
1 N/A ft			22			12 - Other			
Driver Full Name			Street Address			13 - Pedestrian			
D 01/17/1961 Race Sex DL State			Driver License No.			14 - Vehicle			
D Month Day Year			WFVA T66300358			15 - Occupant			
Place of Employment			Subsidiary			16 - Pedestrian			
Tutweiler Prison			Officer's Opinion			17 - Vehicle			
Driver 0 - No Defect 2 - Fatigued 3 - Other			Alcohol: Yes 8 Link Given: 0			18 - Occupant			
Condition: 2 - Apparently Asleep 4 - Ill 6 - Unknown			Drugs: Yes 8 Link Given: 0			19 - Pedestrian			
Maneuver 17 - Travel Road Name			Road Code			20 - Vehicle			
U.S. 231			5021			21 - Occupant			
Veh Year Make Model Bdy V.I.N.			Travel Direction			22 - Pedestrian			
2003 Satu 562 4 1G82J52782Z304147			N E SW A/Not on Rd U/Link			23 - Vehicle			
Owner Name			Street or R.F.O.			24 - Occupant			
Todd Swing			Same As Driver			25 - Pedestrian			
Vehicle Towed By Who			Citation Offense Charged			26 - Vehicle			
Haynes Wrecker			Damage 1 - None Visible			27 - Occupant			
Speed Limit Est. Speed			Severity 2 - Not Disabled			28 - Pedestrian			
55 MPH 99 MPH			Disabled			29 - Vehicle			
Vehicle Towed By Who			Vehicle Towed Away?			30 - Occupant			
Haynes Wrecker			No			31 - Pedestrian			
To Where: Wetumpka, AL			Occupants at Unit			32 - Vehicle			
Driver/Pedestrian Full Name			Street Address			33 - Occupant			
Sonja R. Hammock 7095 Weaka Rd. Wetumpka, AL						34 - Pedestrian			
D 03/19/1985 Race Sex DL State			Driver License No.			35 - Vehicle			
D Month Day Year			WF AL 7211057			36 - Occupant			
Place of Employment			Subsidiary			37 - Pedestrian			
Hoyt Henley Builders			Officer's Opinion			38 - Vehicle			
Driver/Ped 0 - No Defect 3 - Fatigued 4 - Ill			Alcohol: Yes 8 Link Given: 0			39 - Occupant			
Condition: 2 - Apparently Asleep 6 - Unknown			Drugs: Yes 8 Link Given: 0			40 - Pedestrian			
Maneuver/Action 17 - Travel Road Name			Road Code			41 - Vehicle			
U.S. 231			5021			42 - Occupant			
Veh Year Make Model Bdy V.I.N.			Travel Direction			43 - Pedestrian			
2000 Ford MUST 2 1FAFP4441YF184034			N E SW A/Not on Rd U/Link			44 - Vehicle			
Owner Name			Street or R.F.O.			45 - Occupant			
Phillip Hammock			Same As Driver			46 - Pedestrian			
Vehicle Towed By Who			Citation Offense Charged			47 - Vehicle			
Jones Wrecker			Damage 1 - None Visible			48 - Occupant			
Speed Limit Est. Speed			Severity 2 - Not Disabled			49 - Pedestrian			
55 MPH 55 MPH			Disabled			50 - Vehicle			
Vehicle Towed By Who			Vehicle Towed Away?			51 - Occupant			
Jones Wrecker			No			52 - Pedestrian			
To Where: Montgomery, AL			Occupants in Unit			53 - Vehicle			
Contributing Circumstances			Driver Maneuver			Pedestrian Action			
C1 - Improper Passing			C1 - Go Straight Ahead			C1 - On Roadway			
C2 - Improper Lane Change/Passage			C2 - Pass on Left			C2 - Off Roadway			
C3 - Improper Lane Change/Passage			C3 - Pass on Right			C3 - Median			
C4 - Improper Turn/Turn			C4 - Turn on Right			C4 - Divided			
C5 - Improper Turn/Turn			C5 - Driver Not in Control			C5 - Walk in Road with Other Traffic			
C6 - Improper Turn/Turn			C6 - Left Side			C6 - Walk in Road Against Traffic			
C7 - Improper Turn/Turn			C7 - Parked in Lane			C7 - Stand in Sidewalk			
C8 - Improper Turn/Turn			C8 - Parked in Lane			C8 - Get on/Off Vehicle			
C9 - Improper Turn/Turn			C9 - Parked in Lane			C9 - Push/Walk on Vehicle			
C10 - Improper Turn/Turn			C10 - Parked in Lane			C10 - Walk in Road with Other Traffic			
C11 - Improper Turn/Turn			C11 - Parked in Lane			C11 - In Road			
C12 - Improper Turn/Turn			C12 - Parked in Lane			C12 - Not in Road			
C13 - Improper Turn/Turn			C13 - Parked in Lane			C13 - Other			
C14 - Improper Turn/Turn			C14 - Parked in Lane			C14 - Unknown			
C15 - Improper Turn/Turn			C15 - Parked in Lane			C15 - Other			
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C154 - Improper Turn/Turn			C154 - Parked in Lane			C154 - Unknown			

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<p>Officer's Opinion of What Happened: <i>Unit one had exited Tattnallier Prison attempting to go south on U.S. 231 pulled out in front of Unit two who was traveling south on U.S. 231. Driver of unit one stated she did not see unit two</i></p>																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																
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ROADWAY ENVIRONMENT	<table border="1"> <tr> <td colspan="11">For Each Roadway Environment Field, Circle One Entry for Each Involved Unit:</td> </tr> <tr> <td colspan="2">Unit 1</td> <td colspan="2">Contributing Road Defects</td> <td colspan="2">Surfaces</td> <td colspan="2">Condition</td> <td colspan="2">Accident In Or Related To Road Construction Zone?</td> <td colspan="2">Material In Roadway (Contributing)</td> </tr> <tr> <td colspan="2">1</td> <td colspan="2">None</td> <td colspan="2">Asphalt</td> <td colspan="2">Dry</td> <td colspan="2">No</td> <td colspan="2">00 - None 1 - Rocks 2 - Trees/Limbs 3 - Other</td> </tr> <tr> <td colspan="2">2</td> <td colspan="2">1 - Shoulders Low 2 - Shoulders High 3 - Holes, Bumps, Etc. 8 - Other</td> <td colspan="2">2 - Concrete 3 - Brick 4 - Unpaved 8 - Other</td> <td colspan="2">2 - Wet 3 - Icy 4 - Snowy/Slushy 8 - Other</td> <td colspan="2">Yes Yes</td> <td colspan="2">5 - Oil/Petrol 6 - Other 7 - Already In Road, But 8 - From Vehicle 9 - Unknown</td> </tr> <tr> <td colspan="2">3</td> <td colspan="2"></td> <td colspan="2"></td> <td colspan="2"></td> <td colspan="2"></td> <td colspan="2">10 - Dirt</td> </tr> <tr> <td colspan="2">4</td> <td colspan="2"></td> <td colspan="2"></td> <td colspan="2"></td> <td colspan="2"></td> <td colspan="2">11 - 1 - Blinded by Sunlight 12 - 2 - Dust 13 - 3 - Treas, Crops, Bushes 14 - 4 - Blowing Snow/Sand 15 - 5 - Hillcrest 16 - 6 - Curve in Road 17 - 7 - Fog 18 - 8 - Parked Vehicle 19 - 9 - Moving Vehicle(s)</td> </tr> <tr> <td colspan="2">5</td> <td colspan="2"></td> <td colspan="2"></td> <td colspan="2"></td> <td colspan="2"></td> <td colspan="2">11 - 1 - Police Officer 12 - 2 - R.R. Crossing Gates 13 - 3 - R.R. Flashing Lights 14 - 4 - R.R. Cross Bkcks/Fence, Mark 15 - 5 - Pedestrian Control 16 - 6 - Traffic Signal 17 - 7 - Flashing Beacon 18 - 8 - Stop Sign 19 - 9 - Yield Sign</td> </tr> <tr> <td colspan="2">6</td> <td colspan="2"></td> <td colspan="2"></td> <td colspan="2"></td> <td colspan="2"></td> <td colspan="2">11 - 11 - Flagger 12 - 12 - No Parking Zone 13 - 13 - Blinded by Headlights 14 - 14 - Embankment 15 - 15 - Rain on Windshield 16 - 16 - Snow on Windshield 17 - 17 - Other</td> </tr> <tr> <td colspan="2">7</td> <td colspan="2"></td> <td colspan="2"></td> <td colspan="2"></td> <td colspan="2"></td> <td colspan="2">11 - 1 - Paved Surface 12 - 2 - Unpaved Surface 13 - 3 - Broken Painted Line 14 - 4 - Solid Painted Line 15 - 5 - Concave Barrier 16 - 6 - Metal Guard Rail 17 - 7 - Fence 18 - 8 - Other Barrier</td> </tr> <tr> <td colspan="2">8</td> <td colspan="2"></td> <td colspan="2"></td> <td colspan="2"></td> <td colspan="2"></td> <td colspan="2">11 - 1 - None 2 - 2 - Two Lanes 3 - 3 - Three Lanes 4 - 4 - Four Lanes 5 - 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Material In Roadway (Contributing)		1		None		Asphalt		Dry		No		00 - None 1 - Rocks 2 - Trees/Limbs 3 - Other		2		1 - Shoulders Low 2 - Shoulders High 3 - Holes, Bumps, Etc. 8 - Other		2 - Concrete 3 - Brick 4 - Unpaved 8 - Other		2 - Wet 3 - Icy 4 - Snowy/Slushy 8 - Other		Yes Yes		5 - Oil/Petrol 6 - Other 7 - Already In Road, But 8 - From Vehicle 9 - Unknown		3										10 - Dirt		4										11 - 1 - Blinded by Sunlight 12 - 2 - Dust 13 - 3 - Treas, Crops, Bushes 14 - 4 - Blowing Snow/Sand 15 - 5 - Hillcrest 16 - 6 - Curve in Road 17 - 7 - Fog 18 - 8 - Parked Vehicle 19 - 9 - Moving Vehicle(s)		5										11 - 1 - Police Officer 12 - 2 - R.R. Crossing Gates 13 - 3 - R.R. Flashing Lights 14 - 4 - R.R. Cross Bkcks/Fence, Mark 15 - 5 - Pedestrian Control 16 - 6 - Traffic Signal 17 - 7 - Flashing Beacon 18 - 8 - Stop Sign 19 - 9 - Yield Sign		6										11 - 11 - Flagger 12 - 12 - No Parking Zone 13 - 13 - Blinded by Headlights 14 - 14 - Embankment 15 - 15 - Rain on Windshield 16 - 16 - Snow on Windshield 17 - 17 - Other		7										11 - 1 - Paved Surface 12 - 2 - Unpaved Surface 13 - 3 - Broken Painted Line 14 - 4 - Solid Painted Line 15 - 5 - Concave Barrier 16 - 6 - Metal Guard Rail 17 - 7 - Fence 18 - 8 - Other Barrier		8										11 - 1 - None 2 - 2 - Two Lanes 3 - 3 - Three Lanes 4 - 4 - Four Lanes 5 - 5 - Five Lanes 6 - 6 - Six Lanes or More		9										11 - 1 - One Lane 2 - 2 - Two Lanes 3 - 3 - Three Lanes 4 - 4 - Four Lanes 5 - 5 - Five Lanes 6 - 6 - Six Lanes or More		10										11 - 1 - One Lane 2 - 2 - Two Lanes 3 - 3 - Three Lanes 4 - 4 - Four Lanes 5 - 5 - Five Lanes 6 - 6 - Six Lanes or More		11										11 - 1 - One Lane 2 - 2 - Two Lanes 3 - 3 - Three Lanes 4 - 4 - Four Lanes 5 - 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6 - Six Lanes or More		27										11 - 1 - One Lane 2 - 2 - Two Lanes 3 - 3 - Three Lanes 4 - 4 - Four Lanes 5 - 5 - Five Lanes 6 - 6 - Six Lanes or More		28										11 - 1 - One Lane 2 - 2 - Two Lanes 3 - 3 - Three Lanes 4 - 4 - Four Lanes 5 - 5 - Five Lanes 6 - 6 - Six Lanes or More		29										11 - 1 - One Lane 2 - 2 - Two Lanes 3 - 3 - Three Lanes 4 - 4 - Four Lanes 5 - 5 - Five Lanes 6 - 6 - Six Lanes or More		30										11 - 1 - One Lane 2 - 2 - Two Lanes 3 - 3 - Three Lanes 4 - 4 - Four Lanes 5 - 5 - Five Lanes 6 - 6 - Six Lanes or More		31										11 - 1 - One Lane 2 - 2 - Two Lanes 3 - 3 - Three Lanes 4 - 4 - Four Lanes 5 - 5 - Five Lanes 6 - 6 - Six Lanes or More		32										11 - 1 - One Lane 2 - 2 - Two Lanes 3 - 3 - Three Lanes 4 - 4 - Four Lanes 5 - 5 - Five Lanes 6 - 6 - Six Lanes or More		33										11 - 1 - One Lane 2 - 2 - Two Lanes 3 - 3 - Three Lanes 4 - 4 - Four Lanes 5 - 5 - Five Lanes 6 - 6 - Six Lanes or More		34										11 - 1 - One Lane 2 - 2 - Two Lanes 3 - 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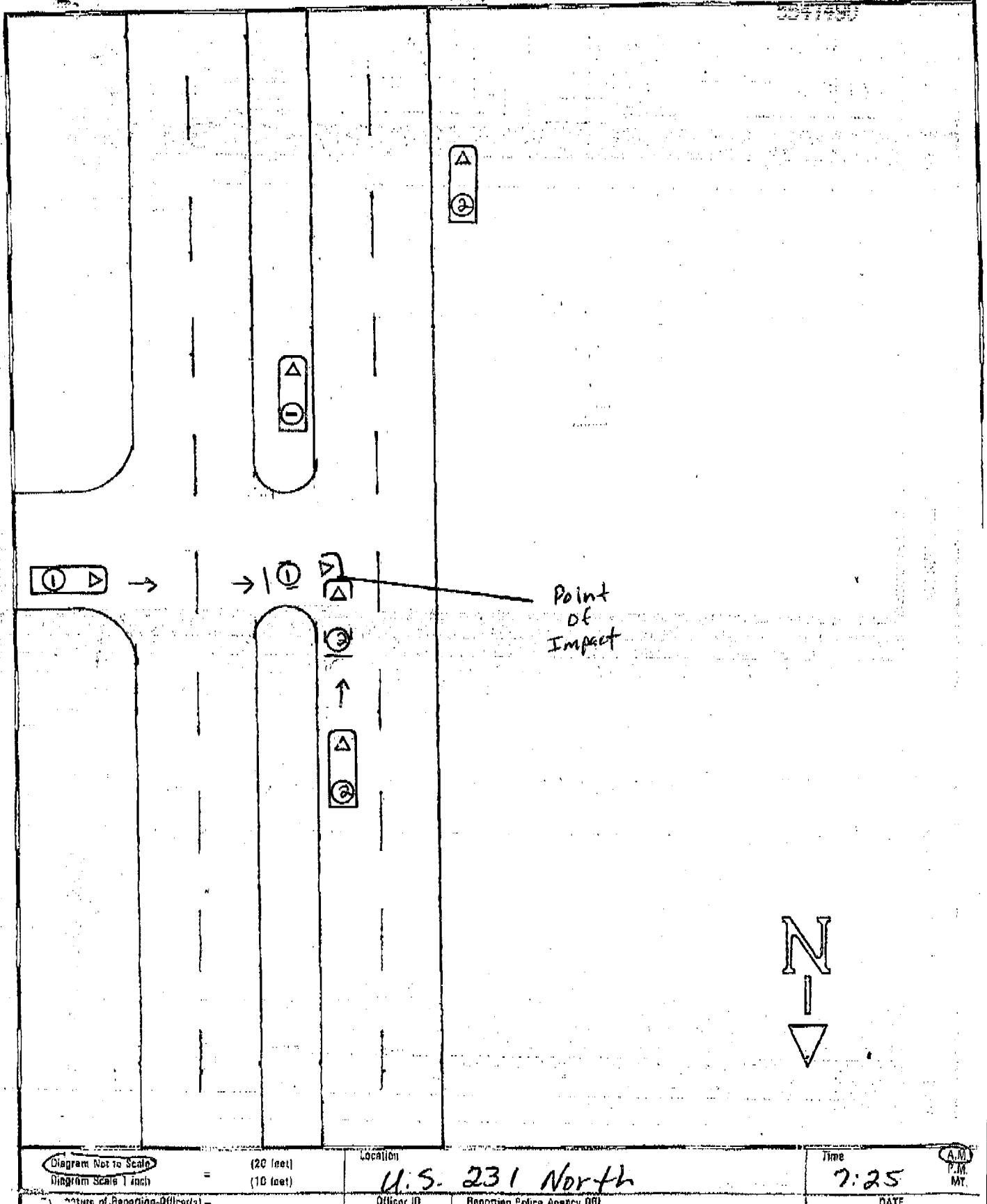


Diagram Not to Scale
Diagram Scale 1 inch

=
(20 feet)
(10 feet)

Location

U.S. 231 North

Time
7:25
A.M.
P.M.
M.T.

Name of Reporting-Officer
Sgt. C.W. Engling

Officer ID

Reporting Police Agency ORI

914 AL0290100

DATE
Month Day Year
11 23 2005

EXHIBIT 2

IN THE CIRCUIT COURT OF LOWNES COUNTY, ALABAMA

NOTICE OF REMOVAL

COMES NOW the defendant, Todd Swing, and hereby notifies the parties in the above-styled action and the Clerk of the Circuit Court of Baldwin County, Alabama, in accordance with the provisions of 28 U.S.C. §1446, of the filing of the Notice of Removal in the United States District Court of the Middle District of Alabama, Northern Division, of the civil action styled as Sonia Hammock v. Nell E. Lamb and Todd Swing, et al., Civil Action Number CV-07-47. A copy of the Notice of Removal is attached and hereby filed with the Clerk of the Circuit Court of Lowndes County, Alabama.

This the 26 day of September, 2007.

James Beuerman

R. Larry Bradford, Attorney for Defendant,
Todd Swing
Attorney Bar Code: BRA039

OF COUNSEL:

Bradford & Sears, P.C.
2020 Canyon Road
Suite 100
Birmingham, AL 35216

EXHIBIT 3

CERTIFICATE OF SERVICE

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

SONIA R. HAMMOCK,)
)
Plaintiff,)
)
v.) Civil Action Number:
)
NELL E. LAMB and TODD SWING,)
et al.,)
)
Defendants.)

NOTICE OF REMOVAL

COMES NOW the defendant, Todd Swing (“Swing”), and files this Notice of Removal of this case from the Circuit Court of Lowndes County, Alabama, in which it is now pending to the United States District Court for the Middle District of Alabama, Northern Division, and shows unto the court the following:

I.

This case was commenced in the Circuit Court of Lowndes County, Alabama on September 11, 2007, and is now pending in that court.

II.

This case is a civil action for damages arising out of a motor vehicle accident which occurred on November 23, 2005 in Elmore County, Alabama.

III.

This action is one of a civil nature over which the District Courts of the United States have original jurisdiction because of diversity of citizenship and the amount in controversy.

IV.

The matter in dispute exceeds the sum of \$75,000, exclusive of interest and costs, as will more fully appear by the plaintiff's complaint which is attached as Exhibit "A". The plaintiff is seeking an unspecified amount of compensatory and punitive damages. She underwent surgery for her shoulder injury which she claims that she received in this accident. Her last settlement demand was in excess of \$75,000.

V.

The plaintiff, Sonia Hammock, was at the time of the commencement of this action, and now is, a resident citizen of Alabama. She lives in Elmore County, Alabama

VI.

The defendant, Nell E. Lamb ("Lamb"), has now been served with the complaint while visiting her mother in Alabama. However, she was at the time of the commencement of this action, and now is, a resident citizen of the state of Michigan. Lamb will consent to joining in this notice of removal.

The defendant Swing was at the time of the commencement of this action and is now a resident citizen of the state of Michigan.

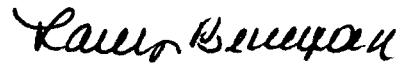
VII.

The petition is timely filed with this Court pursuant to 28 U.S.C. §1446(b). Swing has agreed that his attorney can file an answer to the complaint and notice of removal without the necessity of formal service of process upon him.

VIII.

A copy of this Notice of Removal will be filed with the clerk of the Circuit Court of Lowndes County, Alabama in accordance with 28 U.S.C. §1446(d).

Swing requests that this Court will take jurisdiction of this case and will issue all necessary orders and process in order to remove the case from the Circuit Court of Lowndes County, Alabama, to the United States District Court for the Northern Division of the Middle District of Alabama.



R. Larry Bradford, Attorney for Defendant,
Todd Swing
Attorney Bar Code: ASB-8038-F64R

OF COUNSEL:

Bradford & Sears, P.C.
2020 Canyon Road
Suite 100
Birmingham, AL 35216

CERTIFICATE OF SERVICE

I hereby certify that I have this the 26 day of September, 2007 served a copy of the foregoing to all attorneys of record by electronically filing and/or placing a copy of same in the United States Mail, postage prepaid and properly addressed as follows:

Tedford Taylor, Esq.
Taylor & Taylor
2130 Highland Avenue
Birmingham, AL 35205

Laura Belleson
OF COUNSEL

EXHIBIT “A”

IN THE CIRCUIT COURT OF LOWNDES COUNTY, ALABAMA

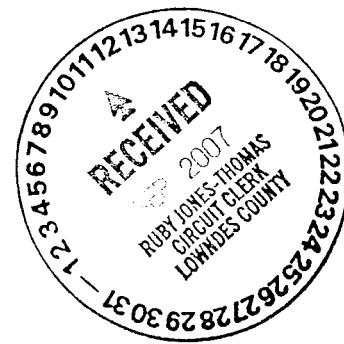
SONIA R. HAMMOCK,

Plaintiff,

vs.

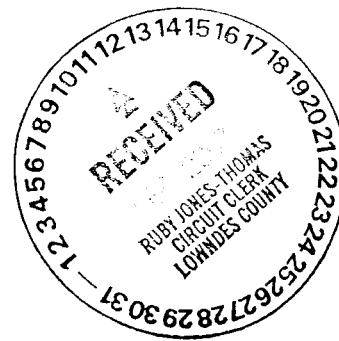
) CIVIL ACTION NO: _____

)
NELL E. LAMB, an individual;)
TODD SWING, an individual;)
DEFENDANTS A, B and C,)
whether singular or plural,)
that person, firm or)
corporation owning the vehicle))
being driven by NELL E. LAMB,)
on the occasion made the basis))
of this suit; FICTITIOUS)
DEFENDANTS D, E and F, whether))
singular or plural, that)
person, firm or corporation)
on whose behalf the vehicle)
was being driven by NELL E.)
LAMB on the occasion made)
the basis of this lawsuit;)
FICTITIOUS DEFENDANTS G, H)
and I, whether singular or)
plural, that person, firm)
or corporation who or which)
insured the Plaintiff under)
a policy of uninsured and/or)
underinsured motorist coverage))
on the occasions made the)
basis of this lawsuit;)
FICTITIOUS DEFENDANTS J, K)
and L, whether singular or)
plural, that person, firm or)
corporation who or which)
negligently entrusted the)
vehicle to NELL E. LAMB on)
the occasion made the basis)
of this lawsuit; FICTITIOUS)
DEFENDANTS M, N and O,)
whether singular or plural,)
that person who is the)
true and correct name of the)
Defendants known as NELL E.)
LAMB, TODD SWING and/or)



FICTITIOUS DEFENDANTS P, Q)
 and R, whether singular or)
 plural, that person, firm or)
 corporation who or which sold,)
 provided, served or otherwise)
 dispensed alcoholic beverages)
 to Defendant NELL E. LAMB)
 prior to the collision made)
 the basis of this lawsuit;
 FICTITIOUS DEFENDANTS S, T)
 and U, whether singular or)
 plural, that person, firm or)
 corporation whose negligence,)
 wantonness, willfulness and/or)
 otherwise wrongful conduct)
 caused the collision made the)
 basis of this lawsuit,

Defendants.



COMPLAINT

1. Plaintiff, SONIA R. HAMMOCK (hereinafter "Plaintiff" or "HAMMOCK"), is an adult resident citizen of Elmore County, Alabama.
2. Defendant NELL E. LAMB (hereinafter "LAMB") is an adult and at all times relevant to the Complaint was a resident of Lowndes County, Alabama.
3. Defendant TODD SWING (hereinafter "SWING") is an adult and at all times relevant to the Complaint was a resident of Lowndes County, Alabama.
4. FICTITIOUS DEFENDANTS A, B, and C, whether singular or plural, is that person, firm or corporation owning the vehicle being driven by NELL E. LAMB on the occasion made the basis of this suit; FICTITIOUS DEFENDANTS D, E and F, whether singular or plural, is that person, firm or corporation in whose behalf the vehicle was

being driven by NELL E. LAMB on the occasion made the basis of this lawsuit; FICTITIOUS DEFENDANTS G, H and I, whether singular or plural, is that person, firm or corporation who or which insured the Plaintiff under a policy of uninsured and/or undersinsured motorist coverage on the occasion made the basis of this lawsuit; FICTITIOUS DEFENDANTS J, K and L, whether singular or plural, is that person, firm or corporation who or which negligently entrusted the vehicle to NELL E. LAMB on the occasion made the basis of this lawsuit; FICTITIOUS DEFENDANTS M, N and O, whether singular or plural, is that person, firm or corporation who or which is the true and correct name of the Defendants herein known as NELL E. LAMB, TODD SWING and/or FICTITIOUS DEFENDANTS; FICTITIOUS DEFENDANTS P, Q and R, whether singular or plural, is that person, firm or corporation who or which sold, provided, served or otherwise dispensed alcoholic beverages to Defendant NELL E. LAMB prior to the incident made the basis of this lawsuit; FICTITIOUS DEFENDANTS S, T and U, whether singular or plural, is that person, firm or corporation whose negligence, wantonness, willfulness and/or otherwise wrongful conduct caused the collision made the basis of this lawsuit. The aforesaid wrongful conduct of said FICTITIOUS DEFENDANTS proximately caused damage to Plaintiff as set forth herein. The identities of the FICTITIOUS DEFENDANTS are otherwise unknown to Plaintiff at this time, or if their names are known to Plaintiff at this time, their identities as proper party

Defendants are not known to Plaintiff at this time, but their true names will be substituted by amendment when ascertained.

COUNT ONE

1. On or about November 23, 2005, on U.S. Highway 231, near Tutwiler Prison, on the outskirts of Wetumpka, Elmore County, Alabama, Defendant NELL E. LAMB negligently and/or wantonly caused or allowed the motor vehicle she was operating to collide with the motor vehicle being driven by the Plaintiff.

2. Defendant TODD SWING, and/or FICTITIOUS DEFENDANTS entrusted to Defendant NELL E. LAMB the vehicle being operated by NELL E. LAMB at the time of the collision made the basis of this lawsuit.

3. As a proximate consequence of the negligence and/or wantonness of Defendant(s), Plaintiff was caused to suffer, among other things, the following injuries and damages: she was injured in and about her body, including but not limited to, injury to her shoulder and rotator cuff requiring surgery and painful physical therapy; she incurred medical bills; and, she has suffered physical pain and suffering, mental anguish and emotional distress and other damages, losses and impairments. Some or all of said damages and losses are permanent in nature or are otherwise expected to continue in the future.

WHEREFORE, Plaintiff demands judgment including compensatory and punitive damages against Defendants NELL E. LAMB, TODD SWING

and/or FICTITIOUS DEFENDANTS, in an amount exceeding the jurisdictional minimum of this Court, plus interest and costs.

COUNT TWO

1. Plaintiff realleges the allegations contained in each and every Count of this Complaint.

2. Plaintiff claims damages against Defendant SWING and/or FICTITIOUS DEFENDANTS for negligently entrusting the motor vehicle to Defendant NELL E. LAMB, on November 23, 2005, the date of the collision made the basis of this lawsuit.

3. Plaintiff avers that on November 23, 2005, on U.S. Highway 231, near Tutwiler Prison, on the outskirts of Wetumpka, Elmore County, Alabama, as proximate result of the aforementioned negligent entrustment, Defendant LAMB was in possession and control of Defendant SWING'S and/or FICTITIOUS DEFENDANTS' motor vehicle when she pulled out in front of Plaintiff.

4. Plaintiff avers that Defendant LAMB was incompetent and/or reckless in the operation of the motor vehicle; and Defendant LAMB so negligently and/or wantonly operated the negligently entrusted motor vehicle that she caused said vehicle to collide with the motor vehicle being operated by Plaintiff.

5. Defendant SWING knew, or should have known, of Defendant LAMB'S incompetency, inexperience, and/or recklessness, at all times relevant to the underlying circumstances of this lawsuit, which created an appreciable risk of harm.

6. As a proximate cause of the negligence and/or wantonness of Defendant LAMB, combined with the negligent entrustment of the vehicle, Plaintiff was caused to suffer injuries and damages as previously set forth herein.

WHEREFORE, Plaintiff demands judgment against Defendants, including FICTITIOUS DEFENDANTS, in an amount exceeding the jurisdictional minimum of this Court, plus interest and costs.


TEDFORD TAYLOR (TAY001)
Attorney for Plaintiff

OF COUNSEL

TAYLOR & TAYLOR
2130 Highland Avenue
Birmingham, AL 35205
(205) 558-2800 - telephone
(205) 558-2860 - facsimile

Plaintiff demands a trial by struck jury.


TEDFORD TAYLOR

DEFENDANTS' ADDRESSES

NELL E. LAMB
Post Office Box 61
Lowndesboro, Alabama 36752-0061

TODD SWING
Post Office Box 61
Lowndesboro, Alabama 36752-0061

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

SONIA R. HAMMOCK,)
)
Plaintiff,)
)
v.) Civil Action Number:
)
NELL E. LAMB and TODD SWING,)
et al.,)
)
Defendants.)

JOINDER IN REMOVAL

COMES NOW the defendant, Nell E. Lamb, pursuant to 28 U.S.C. § 1446, and joins in the notice of removal filed by the defendant, Todd Swing, in this case.

R. Larry Bradford

R. Larry Bradford, Attorney for Defendant,
Nell E. Lamb
Attorney Bar Code: ASB-8038-F64R

OF COUNSEL:

Bradford & Sears, P.C.
2020 Canyon Road
Suite 100
Birmingham, AL 35216

CERTIFICATE OF SERVICE

I hereby certify that I have this the 20 day of September, 2007 served a copy of the foregoing to all attorneys of record by electronically filing and/or placing a copy of same in the United States Mail, postage prepaid and properly addressed as follows:

Tedford Taylor, Esq.
Taylor & Taylor
2130 Highland Avenue
Birmingham, AL 35205



OF COUNSEL

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

SONIA R. HAMMOCK,)
)
Plaintiff,)
)
v.) Civil Action Number:
)
NELL E. LAMB and TODD SWING,)
et al.,)
)
Defendants.)

ANSWER OF DEFENDANT, NELL E. LAMB (“LAMB”)

First Defense

Lamb denies each and every material allegation of the complaint. She demands strict proof thereof.

Second Defense

Lamb specifically denies that she was guilty of any wantonness as alleged in the complaint. She denies that she was guilty of the type conduct required for the imposition of punitive damages under Alabama law. She demands clear and convincing evidence of such wrongful conduct.

Third Defense

Lamb denies that the plaintiff is entitled to recover the items and amounts of damages alleged in the complaint. She demands strict proof thereof.

Fourth Defense

Lamb reserves the right to amend her answer to raise additional or different defenses upon completion of further investigation and discovery.

R. Larry Bradford

R. Larry Bradford, Attorney for Defendant,
Nell E. Lamb
Attorney Bar Code: ASB-8038-F64R

OF COUNSEL:

Bradford & Sears, P.C.
2020 Canyon Road
Suite 100
Birmingham, AL 35216
(205) 871-7733

CERTIFICATE OF SERVICE

I hereby certify that I have this the 28 day of September, 2007 served a copy of the foregoing to all attorneys of record by electronically filing and/or placing a copy of same in the United States Mail, postage prepaid and properly addressed as follows:

Tedford Taylor, Esq.
Taylor & Taylor
2130 Highland Avenue
Birmingham, AL 35205

R. Larry Bradford

OF COUNSEL

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

SONIA R. HAMMOCK,)
)
Plaintiff,)
)
v.) Civil Action Number:
)
NELL E. LAMB and TODD SWING,)
et al.,)
)
Defendants.)

ANSWER OF DEFENDANT, TODD SWING ("SWING")

First Defense

Swing denies each and every material allegation of the complaint. He demands strict proof thereof.

Second Defense

Swing specifically denies that he was guilty of any wantonness as alleged in the complaint. He denies that he was guilty of the type conduct required for the imposition of punitive damages under Alabama law. He demand clear and convincing evidence of such wrongful conduct.

Third Defense

Swing denies that Nell E. Lamb was an incompetent driver or that he negligently entrusted his automobile to her. He demands strict proof thereof.

Fourth Defense

Swing denies that the plaintiff is entitled to recover the items and amounts of damages alleged in the complaint. He demands strict proof thereof.

Fifth Defense

Swing reserves the right to amend his answer to raise additional or different defenses in accordance with the court's scheduling order.

R. Larry Bradford
R. Larry Bradford, Attorney for Defendant,
Todd Swing
Attorney Bar Code: ASB-8038-F64R

OF COUNSEL:

Bradford & Sears, P.C.
2020 Canyon Road
Suite 100
Birmingham, AL 35216

CERTIFICATE OF SERVICE

I hereby certify that I have this the 26 day of September, 2007 served a copy of the foregoing to all attorneys of record by electronically filing and/or placing a copy of same in the United States Mail, postage prepaid and properly addressed as follows:

Tedford Taylor, Esq.
Taylor & Taylor
2130 Highland Avenue
Birmingham, AL 35205

R. Larry Bradford
OF COUNSEL

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

SONIA R. HAMMOCK, §
§
Plaintiff, §
§
v. § CIVIL ACTION NO.
§ 07-CV-00896-WHA-TFM
NELL E. LAMB and TODD SWING, §
et al., §
§
Defendants. §

AFFIDAVIT OF TOBY HORNE

STATE OF ALABAMA)
:
JEFFERSON COUNTY)

COMES NOW Toby Horne, being duly sworn, and deposes and states the following:

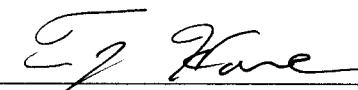
1. I am over the age of nineteen years.
2. I am employed by Central Alabama Investigations as an investigator and process server, was hired by Taylor and Taylor regarding the above referenced case, and have personal knowledge of the facts set forth in this affidavit.
3. Central Alabama Investigations maintains a post office box at: P.O. BOX 240831, Montgomery, Alabama, 36124.
3. On September 24, 2007, around 10:00 a.m., I served Defendant Nell E. Lamb at 120 Lost Trail, Lowndesboro, Alabama, with a Summons and Complaint in the above referenced case.

4. The woman who answered the door stated that she was Defendant Lamb's mother, that Defendant went by the name Elaine, and that Defendant Lamb was asleep because she worked as a nurse.

5. Shortly thereafter, an alarm clock went off and Defendant Lamb came into the room, where I served her with the Summons and Complaint in the above referenced case.

6. Defendant Lamb then gave me Defendant Todd Swing's information in Michigan, stating that it was Defendant Swing's mother's address, but that he was currently living on her property.

7. Defendant Lamb's mother also stated that she and Defendant Lamb were planning on moving to Michigan, but were going to maintain the residence at 120 Lost Trail, Lowndesboro, Alabama.


TOBY HORNE

Sworn to and subscribed before me this the 18th day of October, 2007.


Daphne Marder
Notary Public
My commission expires

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: June 19, 2011
BONDED THRU NOTARY PUBLIC UNDERWRITERS